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09/943,882	08/31/2001	Juergen Reinold	IA00006	2241
23330	7590	03/09/2005	EXAMINER	
MOTOROLA, INC.			HYUN, SOON D	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/943,882

Filing Date: August 31, 2001

Appellant(s): REINOLD ET AL.

Anthony G. Sitko
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 12, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-5 and 7-17 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

6,292,718

STAIGER

9-2001

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4 and 7-16 are rejected under 35 U.S.C. 102(e) and claims 5 and 17 are rejected under 35 U.S.C. 103(a).

Claims 1-4 and 7-16 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,292,718 to Staiger.

Regarding to claims 1 and 10, Staiger discloses an active system in figure 3 used in a vehicle (Col. 10, lines 34-67) wherein the control element 'CAP' is the second device, and the control element 'SysMon' is the first device that couples to the network through Links (a) (first communication coupling), and (b) (second communication coupling). The claim active network reads on the paths a-f and the elements 'ComPro' and 'MMI/A' shown in Fig. 3

Regarding to claims 2, 11 and 12, the control elements 'Compro', 'MMI/A', and Wireless Systems are the active network elements', wherein the link (a) (first communication coupling) couples to the 'Compro' (first active network element) and the link (b) (second communication coupling) couples to the 'MMI/A' (second communication coupling).

Regarding to claims 3, 13, and 14, Staiger discloses the control elements comprising transceiver devices (device active network element) for exchanging data (Col. 11, lines 10-23).

Regarding to claims 4 and 7, the transceiver that communicates with the control element 'Compro' through link (a) is considered the first device active network, and the transceiver that communicates with the control element 'MIN/A' through link (b) is considered the second device active network.

Regarding to claim 8, Staiger discloses the 'SynMon' monitor system vitality comprising temperature and humidity sensing (Col. 7, lines 1-11), therefore, the temperature sensor and the humidity sensor are considered the first and second device elements.

Regarding to claim 9, Staiger discloses the system comprises a packet data network (Col. 12, lines 1-15).

Regarding to claims 15 and 16, from Figure 3, Staiger discloses the transceivers 'SynMon' (first and second device active network elements) coupled to 'Compro' (first active network element) and 'MMI/A' (second active network element).

Claims 5 and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Staiger.

Staiger does not disclose that the transceivers (first and second device active network elements) are coupled by connection media. However, Staiger discloses each control element is enabled to observe 3-way internal/external communication links and automatically reorganize the internal path upon faulty behavior (Col. 13, lines 4-7). In the other words, the system in figure 3 can transmit data from the control element 'Compro' to the control element 'MMI/A' through links (a), and (b) (or links (g), and (d)) if link (c) fails. Therefore a person of ordinary skill in the art would have been motivated to modify the control element 'SysMon' (and similarly other control elements) by coupling the transceivers using connection media so that the transceiver that couples to link (a) can forward the data to the transceiver coupled to link (b) (or vice versa), so the system can select links (a), and (b) (or links (g), and (d)) when link (c) fails, as suggested by Staiger.

Consequently, it would have been obvious to a person having ordinary skill in the art by the time the invention was made to couple the transceivers by connection media.

(11) Response to Argument

Regarding Claims 1 and 10, Appellant argues that Staiger does not disclose any active network, and thus claims 1 or 10 cannot be anticipated by Staiger. In the instant invention, active network, which is a specific physical structure known to have particular characteristics, within a vehicle. The claim active network is not a bus architecture and is not a passive network or a combination of a passive network and a bus architecture or any other type of network structure than an active network structure (Brief, pages 11-12). In reply, the specific physical structure for the “active network” is not claimed, and the specification does not set out any special definition with reasonable clarity, deliberateness, and precision. According to page 8 of the specification, an active network *may* include a plurality of active elements enabling communication paths. The active network *may be* based on packet data principles, and the active network *may* incorporate a fabric of active network elements. It is clear that the terms “active network” are not defined in the specification reasonable clarity, deliberateness, and precision. See *Teleflex Inc. v. Ficosa North America Corp.*, 229 F.3d 1313, 13256, 63 USPQ2d 1374, 1381 (Fed. Cir. 2002), *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342, 60 USPQ2d 1851, 1854 (Fed. Cir. 2001) and MPEP 2111.01. Therefore, it is improper for the examiner to give words of the claims special meaning when no such special meaning has been defined by the written description. As discussed above, the claim active network

reads on the paths a-f including the active elements ‘ComPro’ and ‘MMI/A’ shown in Fig. 3.

On pages 12-13, referring to the Declaration under 37 CFR 1.132 and References Appellant argues that an active network is known to include nodes performing custom operations on messages, and an active node is a defined physical structure. This argument is not persuasive for several reasons. First, the claims do not include means plus function language such that claim limitation must be interpreted to read on structures disclosed in the specification. Second, no definite structure or functions of an active network are found in the specification, and it is not seen how the active networks disclosed in the references cited are related to the active network disclosed in the specification. Third, “custom operations” such as being aware of the contents of messages and participating in processing and modification of messages (Brief, page 13) are not even mentioned in the claims or the specification; thus, it is irrelevant whether the reference show these operations or not.

The Affidavit under 37 CFR 1.132 filed 11/21/03 is insufficient to overcome the rejection of claims 1 and 10 based upon 35 USC 102(e) and as set forth above because the facts presented are not germane to the rejection at issue. Specifically, “custom operations” such as being aware of the contents of messages and participating in processing and modification of messages are not even mentioned in the claims or the specification. In addition, there is no correlation between the active network mentioned in the specification and the active networks described in the references.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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February 22, 2005

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